

1 Michael E. Piston
2 Attorney for the Plaintiffs
3 38-08 Union St., Suite 9A
4 Flushing, NY 11354
5 Phone: 646-876-3772
6 Fax: 206-770-6350
7 Email: michaelpiston4@gmail.com

8 UNITED STATES DISTRICT COURT
9
10 FOR THE EASTERN DISTRICT OF NEW YORK

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12
13 MAMUN DEWAN

14 Plaintiff,

15 vs

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17 ALEJANDRO MAYORKAS,
18 SECRETARY OF HOMELAND
19 SECURITY

20 DEPARTMENT OF HOMELAND
21 SECURITY

22 UNITED STATES CITIZENSHIP AND
23 IMMIGRATION SERVICES

24 Defendants

Case No.:

COMPLAINT

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26 **DESCRIPTION OF ACTION**

- 1 1. This is an action brought by Plaintiff against the Defendants to compel a
2 decision on Plaintiff's Form I-730, Refugee Asylee Relative Petition upon
3 behalf of his wife and children.
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7 **JURISDICTION**

- 8 2. This being a civil action against the United States arising under the
9 Administrative Procedure Act, 5 U.S.C. §701 et seq., a law of the United
10 States, original jurisdiction over this matter is vested in this Court by 28 U.S.C.
11 §1331.
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15 **DESCRIPTION OF PARTIES**

- 16 3. MAMUN DEWAN (A205-614-657) is a citizen of Afghanistan and a
17 resident of the County of Queens, state of New York, who has been granted
18 the asylum status by the Defendants.
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21 4. The Defendant, ALEJANDRO MAYORKAS, is the Secretary of Homeland
22 Security and, as such, the Federal officer to whom Congress has authorized to
23 adjudicate Form I-730. He resides for official purposes in the District of
24 Columbia.
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- 1 5. The Defendant, United States Citizenship and Immigration Services (USCIS)
2 is a federal agency charged with the authority to adjudicate Form I-730. It
3 resides in the District of Columbia and Maryland.
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7 **BRIEF STATEMENT OF RELEVANT FACTS**

- 8 6. MAMUN DEWAN is the husband of LORIN MAHSINARA, and SULTAN
9 RIAZA and MARUF DEWAN are their children.
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11 7. MAMUN DEWA was granted the asylum status by the Defendants on August
12 7, 2019.
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14 8. He filed Forms I-730 to classify LORIN MAHSINARA, and SULTAN
15 RIAZA and MARUF DEWAN as the relatives of a refugee on October 22,
16 2019, and these petitions were assigne File Numbers SRC2003350358,
17 SRC2003350342 and SRC2003350350, respectively.
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19 9. These petitions have all been pending for over two (2) and one half years.
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21 10. As of today, MAMUN DEWAN's petitions upon behalf of LORIN
22 MAHSINARA, and SULTAN RIAZA and MARUF DEWAN all remain
23 under the jurisdiction of the Defendants and are unadjudicated.
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25 11. However, upon information and belief numerous such petition's filed after
26 MAMUN DEWAN'S with the Defendants have been adjudicated.
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VENUE

12. Venue is proper since the Plaintiff currently resides in the City of Elmhurst, County of Queens, State of New York.

CAUSE OF ACTION

**ACTION TO COMPEL AN OFFICER OR AGENCY
OF THE UNITED STATES TO PERFORM HIS DUTY**

13. The Defendants are an officer and an agency of the United States, respectively.
14. The Defendants both owe a duty to MAMUN DEWAN to adjudicate his aforementioned petition within a reasonable period of time. 5 U.S.C. §555(b) ("With due regard for the convenience and necessity of the parties or their representatives and within a reasonable time, each agency shall proceed to conclude a matter presented to it.").
15. Further, 18 U.S.C. §1571(b) provides that: "It is the sense of Congress that the processing of an immigration benefit application should be completed not later than 180 days after the initial filing of the application,"
16. Accordingly, the over two-year period in which MAMUN DEWAN's Forms I-730 has been pending with the Defendants is beyond that which is reasonably required to adjudicate them.

- 1 17. The time Defendants have taken to make decisions on these applications is not
2 governed by a "rule of reason" because, upon information and belief, the
3 Defendants have reached final decisions on numerous Forms I-730 which were
4 filed with them after those of MAMUN DEWAN's.
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- 6 18. Congress has provided in 8 U.S.C. §1571 an indication of the speed with
7 which it expects applications to proceed in the Immigration and Nationality
8 Act, which supplies content for a rule of reason, and the Defendants have
9 fallen far short of the same.
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- 11 19. Human health and welfare are at stake in this action, in that Defendants'
12 failure to adjudicate MAMUN DEWAN's petition for his wife and family
13 leave them trapped in Afghanistan, currently experiencing unprecedented
14 repression, chaos and poverty under the fanatical Taliban regime, which is
15 officially classified by the Immigration and Nationality Act as a terrorist
16 organization.
17
- 18 20. Inasmuch as MAMUN DEWAN is not requesting that his petitions be
19 expedited, but merely processed according to speeds which, upon information
20 and belief, are already slower than that of the processing of the vast majority
21 of recent petitions for refugee asylee relative, this Court need not consider the
22 effect of expediting delayed action on agency activities of a higher or
23 competing priority.
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- 1 21. The Court should also take into account the nature and extent of the interests
2 prejudiced by delay, that is, to LORIN MAHSINARA, and SULTAN RIAZA
3 and MARUF DEWAN's successful immigration to the United States, a delay
4 in which leaves them at the mercy of the Taliban.
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- 6 22. Even though MAMUN DEWAN does not claim that there is any impropriety
7 lurking behind agency lassitude here, nevertheless, Defendants' failure to process
8 his petitions according to their own published guidelines nor the express sense
9 of Congress, as well as, upon information and belief, within the time
10 parameters adhered to by them in the vast majority of petitions for refugee
11 asylee relative filed with the Defendants, provides ample reason to find that
12 these petitions have been unreasonably delayed.
13
- 14 23. This Court has authority under 28 U.S.C. §1361 to compel an officer or
15 agency of the United States to perform a duty owed to RIZMA AKTER and
16 LIANA HASAN.
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- 18 24. This Court also has authority under 5 U.S.C. §706(1) to compel agency action
19 unlawfully withheld or unreasonably delayed.
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25 **RELIEF REQUESTED**
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1 25. WHEREFORE it is respectfully requested that the Court order the Defendants
2 to adjudicate MAMUN DEWAN'S Forms I-730 as soon as reasonably
3 possible and, in any event, in no later than 30 days.
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6 Respectfully submitted, July 11, 2022.

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8 /s/ *Michael E. Piston*

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10 Michael E. Piston
11 Attorney for the Plaintiffs
12 38-08 Union St., Suite 9A
13 Flushing, NY 11354
14 Phone: 646-876-3772
15 Fax: 206-770-6350
16 Email: michaelpiston4@gmail.com
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